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McDaniel, Tinsley & Associates, Inc.
Telecommunications Management Consulting

T.R.A. DOCKET ROOM

August 12, 2003

Office of the Executive Secretary
Tennessee Regulatory Authority
460 James Roberson Parkway
Nashville, Tennessee 37243-0505

DOCKET NO.
03-00483

Re: Wispnet, LLC and DURO Communications Stock Purchase and Transfer
of Ownership and Control of ALEC, Inc.

Dear Sir or Madam:

This letter is to notify the Tennessee Regulatory Authority of the stock purchase and transfer of ownership and control of ALEC, Inc. d/b/a Volaris Telecom.

Wispnet, a privately held Kentucky LLC purchased the ALEC, Inc. stock and assumed ownership and control of the assets in Kentucky and Tennessee. (See Exhibit A). ALEC will continue to operate under the name of ALEC, Inc. removing the d/b/a Volaris Telecom, Inc. The purchase of stock and transfer of ownership and control were transparent to the customers of ALEC.

The Wispnet corporate headquarters is located at 250 West Main Street, Suite 710, Lexington, KY 40507. Wispnet was founded to provide next-generation telecom services to Internet Service Providers and was formed by two members of DURO's senior management team. It was organized in October of 2002 as a separate entity. A certified copy of the Wispnet, LLC Articles of Organization is attached as Exhibit "B".

ALEC will continue to focus its business operations on the very specialized needs of ISP's. ALEC's goal is to provide an alternative to excessive rates and poor quality of local telecom services available to expanding Internet Service Providers.

Wispnet will continue to assist in the expansion of the ALEC network to meet and exceed the needs of its customers by providing the highest quality service at the fairest prices available. Under the new ownership, Wispnet plans to help ALEC grow more rapidly and compete more effectively.

ALEC continues to serve its customers throughout the State of Tennessee pursuant to the same rates, terms and conditions under which such customers were being served prior to the transfer of ownership. Thus, the stock purchase and transfer of ownership and control did not have an adverse impact upon customers in Tennessee and did not result in any interruption or diminution in the quality of service provided. Tennessee consumers will benefit from the availability of an increased variety of products and service options for local exchange services under the new ownership of Wispnet.

Wispnet, LLC possesses all financial, managerial and technical qualifications necessary to complete the transfer of ownership. A highly qualified team of management personnel manages Wispnet with extensive experience in the telecommunications industry. This team is made up of managerial and technical personnel that managed and operated ALEC. Brief biographical statements concerning Wispnet management and technical personnel are attached as Exhibit "C".

As needed, Wispnet will also use the consulting services of McDaniel, Tinsley & Associates, Inc. Brief biographical statements are attached as Exhibit "D".

Please return a date stamped copy of this filing in the self-addressed envelope. If you have any questions or need additional information, please contact Richard McDaniel on (706) 467-0661.

Sincerely,

A handwritten signature in cursive script that reads "Richard McDaniel".

Richard McDaniel
McDaniel, Tinsley & Associates, Inc.

Enc.

cc: Mark Hayes – ALEC, Inc.
Judy Tinsley

EXHIBIT "A"

PURCHASE AGREEMENT

ASSET PURCHASE AGREEMENT

This Asset Purchase Agreement (this "Agreement") is effective as of December __, 2002 (the "Effective Date") between WISPNET, LLC, a Kentucky limited liability company ("Buyer"), and Duro Communication Corporation, a Delaware corporation, d/b/a Volaris Online d/b/a ALEC ("Seller"). Each of Buyer and Seller is sometimes referred to individually as a "Party" or collectively as the "Parties."

RECITALS

WHEREAS, Seller desires to divest itself of certain of its assets, as listed on Exhibit A hereto (the "Acquired Assets"), which assets are used in or related to Seller's CLEC operations in the states of Kentucky and Tennessee (the "Business"); and

WHEREAS, Seller desires to sell and assign all of its right, title and interest in and to the Acquired Assets to Buyer, and Buyer desires to purchase and assume from Seller such Acquired Assets, subject to the terms and conditions set forth in this Agreement.

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

AGREEMENT

1. **DEFINITIONS.** The terms below shall have the following meanings ascribed to them in this Agreement:

- (a) "Affiliate" means, with respect to any Person, any other Person which directly or indirectly controls, is controlled by or is under common control with such Person.
- (b) "Person" means any individual, corporation, partnership, sole proprietor, joint venture, association, joint-stock company, Limited Liability Company, trust, unincorporated organization or any governmental body.
- (c) "Requirements of Laws" means any foreign, federal, state and local laws, statutes, regulations, rules, codes or ordinances enacted, adopted, issued or promulgated by any governmental body (including, without limitation, those pertaining to electrical, building, zoning, telephone or cable lines, environmental and occupational safety and health requirements) or any common law.

2. **SALE OF ASSETS.** Seller agrees to sell, transfer and deliver to Buyer, and Buyer agrees to purchase and accept assignment from the Seller, for the consideration and on the terms hereinafter provided, all of the Seller's right, title and interest in and to the Acquired Assets which are listed in Exhibit A.

3. **PURCHASE PRICE.** The purchase price ("Purchase Price") for the Acquired Assets shall be Two Hundred Thousand Dollars (\$200,000.00).

4. **CLOSING.** Subject to the terms and conditions of this Agreement, the sale of the Acquired Assets, assumption of the Assumed Liabilities and payment of the Purchase Price shall

take place at the closing (the "Closing") to be held on December 16, 2002 at the offices of Holland & Knight LLP, 200 S. Orange Avenue, Suite 2600, Orlando, Florida.

5. **DUTIES AND OBLIGATIONS OF THE PARTIES.**

- (a) **Duties and Obligations of Seller.** In connection with this Agreement, Seller shall have the following duties and obligations:
 - (i) **Sale of Acquired Assets.** Seller hereby sells, conveys, grants, assigns, transfers and delivers to Buyer and its successors and assigns, free and clear of any and all liens, claims, charges or encumbrances, all of Seller's right, title and interest in and to the Acquired Assets. Seller will also provide a customer list of all customers of its CLEC operations in Kentucky and Tennessee (the "Customer List") which is attached hereto as Exhibit A-1.
 - (ii) **Taxes.** Seller shall pay any transfer taxes, or similar taxes that may be imposed upon the transfer and sale of the Acquired Assets pursuant to this Agreement. Seller is solely responsible for all taxes on any amounts paid to Seller under this Agreement by Buyer, including all state and local use, sales, property (ad valorem) and similar taxes.
- (b) **Duties and Obligations of Buyer.** In connection with this Agreement, Buyer shall have the following duties and obligations:
 - (i) **Purchase Price Payment.** Buyer shall deliver to Seller, at Closing, a certified check or wire transfer in the amount of the Purchase Price in immediately available funds.
 - (ii) **Assumed Liabilities.** Buyer agrees to assume the liabilities and obligations of Seller listed on Exhibit B to this Agreement (the "Assumed Liabilities").
 - (iii) **Network Operations.** Buyer must maintain the Lexington, Kentucky SuperPop as part of Seller's Network (at Seller's expense) until Seller notifies Buyer in writing that the Network may be terminated.
- (c) **Press Release.** No Party shall issue a press release or similar public announcement of any kind regarding this Agreement without the prior written approval of the other Party, unless required by law. As of the Closing, the Parties will jointly prepare a statement to utilize in response to inquiries from the media. Either Party may provide comments or make reasonable objections to specific portions of the proposed press release or public statement. If a Party receives such an objection, the proposed press release shall be redrafted to eliminate the objectionable content.

6. **REPRESENTATIONS AND WARRANTIES OF THE PARTIES.**

- (a) **Representations and Warranties of Seller.** Seller represents and warrants to Buyer as follows:

- (i) Due Organization. Seller is a Delaware corporation duly organized, validly existing, and in good standing under the laws of the state of Delaware, and has full corporate power and authority to own, sell, assign and lease its properties and assets and to carry on its business as now conducted. Seller is qualified to do business in all other jurisdictions where such qualification would be required as a result of Seller's ownership and operation of the Business and the Acquired Assets, except where the failure to be so qualified does not and could not reasonably be expected to have an adverse effect on the Business and/or the Acquired Assets.
 - (ii) Due Authorization. Seller has full power and authority to execute, deliver and perform this Agreement and to carry out the transactions contemplated hereby. This Agreement has been duly and validly executed and delivered by Seller and constitutes the valid and binding obligation of the Seller, enforceable in accordance with its terms, except to the extent that enforceability may be limited by laws affecting creditors' rights and debtors' obligations generally, and legal limitations relating to remedies of specific performance and injunctive and other forms of equitable relief (the "Equitable Exceptions"). The execution, delivery and performance of this Agreement (as well as any other instruments, agreements, certificates or other documents contemplated hereby) by Seller, does not (i) violate any Requirements of Laws or any court order of any governmental body applicable to Seller or Seller's property, (ii) violate or conflict with, or permit the cancellation of, or constitute a default under, any agreement to which Seller is a party or by which Seller or any of Seller's property is bound, (iii) permit the acceleration of the maturity of any indebtedness of, or indebtedness secured by, the property of Seller which will not be paid in full as of the Effective Date of this Agreement, (iv) violate or conflict with any provision of the charter or bylaws of Seller or (v) require any consent, approval or authorization of, or notice to, or declaration, filing or registration with, any governmental body or other third party.
 - (iii) Acquired Assets. Seller has full and unrestricted legal title to the Acquired Assets and all revenue generated by the Acquired Assets, free and clear of any and all liens, claims, revenue sharing or referral fees, charges, encumbrances or restrictions of any kind, and upon Buyer's receipt of the Acquired Assets, Buyer shall own the Acquired Assets, free and clear of any liens, claims, revenue sharing or referral fees, charges, encumbrances or restrictions of any kind.
- (b) Representations and Warranties of Buyer. Buyer represents and warrants to Seller as follows:
- (i) Due Organization. Buyer is a Kentucky limited liability company duly organized, validly existing and in good standing under the laws of the state of Kentucky and has full corporate power and authority to carry on its business as now conducted.

- (ii) Due Authorization. Buyer has full power and authority to execute, deliver and perform this Agreement and to carry out the transactions contemplated hereby. This Agreement has been duly and validly executed and delivered by Buyer and constitutes the valid and binding obligations of Buyer, enforceable in accordance with its terms, except to the extent that enforceability may be limited by the Equitable Exceptions. The execution, delivery and performance of this Agreement (as well as any other instruments, agreements, certificates or other documents contemplated hereby) by Buyer, does not (i) violate any Requirements of Laws or any court order of any governmental body applicable to Buyer or Buyer's property, (ii) violate or conflict with, or permit the cancellation of, or constitute a default under, any agreement to which Buyer is a party or by which Buyer or any of Buyer's property is bound, (iii) permit the acceleration of the maturity of any indebtedness of, or indebtedness secured by, the property of Buyer which will not be paid in full as of the Effective Date of this Agreement, (iv) violate or conflict with any provision of the Articles of Organization, Operating Agreement or other organizational documents of Buyer or (v) require any consent, approval or authorization of, or notice to, or declaration, filing or registration with, any governmental body or other third party.
- (iii) Guarantee. In the event Buyer assigns this Agreement to an Affiliate, Buyer will guarantee Affiliate's full performance of all of Buyer's obligations, including payment of the Purchase Price, contained in this Agreement.

7. CONFIDENTIALITY. Except as otherwise provided in this Agreement, Seller and Buyer each agree that all confidential information communicated to one by the other or the other's Affiliates, whether before or after the Effective Date, will be received in strict confidence, will be used only for purposes of this Agreement and will not be disclosed by the recipient Party, its agents, subcontractors or employees (to the extent those agents, subcontractors or employees have confidentiality agreements in place with a Party) without the prior written consent of the other Party. Each Party agrees to take all reasonable precautions to prevent the disclosure to outside parties of such information, including, without limitation, the terms of this Agreement, except as mandated by legal, accounting or regulatory requirements. The provisions of this Section 8 shall survive the expiration or termination of this Agreement for any reason.

8. CONDITIONS PRECEDENT TO THE CLOSING. The rights and obligations of the Parties hereto, and the Closing of the transactions contemplated by this Agreement, are subject to the satisfaction of the following conditions:

- (a) Governmental Approvals. All required governmental approvals necessary, if any, for the Closing shall have been obtained.
- (b) Vendor Consents. All vendor consents that are necessary for the Closing shall have been obtained.

- (c) Due Diligence. Buyer shall have concluded its due diligence and found the results acceptable. All such due diligence shall be completed by November 22, 2002.
- (d) Approval Process. The transactions contemplated by this Agreement, and the execution and delivery hereof, shall have been approved by the Board of Directors of Seller, and by the Manager or other managing entity of Buyer.

9. **INDEMNIFICATION.** The Parties agree to indemnify and hold harmless each other, and each officer, director, employee and Affiliate of the Parties (collectively, the "**Indemnified Parties**") from and against any and all damages, losses, claims, liabilities, demands, charges, suits, penalties, costs and expenses (including court costs and reasonable attorneys' fees and expenses incurred in connection with any litigation or proceeding) (collectively, the "**Indemnifiable Costs**"), which any of the Indemnified Parties may sustain, or to which any of the Indemnified Parties may be subjected, arising from (i) any misrepresentation, breach, omission or default by a Party of or under any of the representations, covenants, agreements or other provisions of this Agreement or any agreement or document executed in connection herewith; or (ii) any noncompliance with the provisions of any applicable bulk sales law or regulation.

10. **GENERAL PROVISIONS.**

- (a) Entire Agreement. The Agreement, including any and all exhibits attached hereto, constitutes the entire understanding and agreement with respect to its subject matter, and supersedes any and all prior or contemporaneous representations, understandings and agreements whether oral or written between the Parties relating to the subject matter of this Agreement, all of which are merged in this Agreement. The Agreement shall not be revised, amended or in any way modified except in a writing executed by both Parties.
- (b) Waivers. The waiver by any Party of any of its rights or breaches of the other Party under this Agreement in a particular instance shall not be construed as a waiver of the same or different rights or breaches in subsequent instances. All remedies, rights, undertakings and obligations hereunder shall be cumulative and none shall operate as a limitation of any other remedy, right, undertaking or obligation thereof. No failure or delay by any Party in exercising any right, power or privilege hereunder (and no course of dealing between or among any of the parties) shall operate as a waiver of any such right, power or privilege.
- (c) Expenses. Each of the parties shall bear all costs, charges and expenses, including expenses of legal counsel, accountants and other advisors, incurred by such Party in connection with this Agreement and the consummation of the transactions contemplated herein.
- (d) Binding Effect; Assignment. This Agreement shall be binding upon and inure to the benefit of Seller and Buyer and each of their respective heirs, representatives, successors and permitted assigns in accordance with the terms hereof. This Agreement shall be assignable by Buyer to any of its Affiliates without the prior written consent of Seller.

- (e) Effects of Expiration or Termination. Upon the expiration or termination of this Agreement, all rights and obligations of the Parties under this Agreement shall terminate, except the rights and obligations under Section 8 shall survive expiration or termination of the Agreement.
- (f) Severability of Provisions. In the event that any provision of this Agreement is found to be invalid or unenforceable pursuant to judicial decree or decision, the remainder of this Agreement shall remain valid and enforceable according to its terms.
- (g) Notices. All notices or other communications hereunder shall be in writing and shall be delivered by hand, facsimile or sent, postage prepaid, by registered or certified mail or reputable overnight courier service and shall be deemed given when so delivered by hand or facsimile or, if mailed, five days after mailing (one business day in the case of overnight courier) addressed to the intended recipient as set forth below:

If to Seller: Duro Communication Corporation
1101 Greenwood Blvd.
Suite 201
Lake Mary, FL 32746
Attention: Steven G. Sapp

with a copy to: Holland & Knight LLP
200 S. Orange Avenue, Suite 2600
Orlando, FL 32801
Attention: Louis T.M. Conti, Esquire

If to Buyer: WISPNET, LLC
105 Bramble Court
Nicholasville, KY 40356
Attention: Mark S. Elliott

with a copy to: _____

Attention: _____

- (h) Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument.
- (i) Governing Law. This Agreement, and any agreements executed by the Parties in connection herewith, shall be governed by and construed in accordance with the laws of the State of Florida without giving effect to applicable conflict of laws provisions. Buyer consents to the personal jurisdiction of such courts sitting in Florida with respect to such matters or otherwise between Seller and Buyer and waives Buyer's rights to removal or consent to removal. In the event any litigation or other proceeding is brought by either Party in connection with this

Agreement, the prevailing Party in such litigation or other proceeding shall be entitled to recover from the other Party all costs, attorneys' fees and other expenses incurred by the prevailing Party in such litigation.

[Remainder of page intentionally left blank.]

IN WITNESS WHEREOF, each of the Parties has executed this Agreement as of the Effective Date.

BUYER:

WISPNET, LLC

By: Mark J. Elliott
Title: President, DATA Services
Date: 1/13/03

SELLER:

DURO COMMUNICATION CORPORATION
d/b/a VOLARIS ONLINE d/b/a ALEC

By: Steve J. Hoff
Title: President
Date: 1/13/03

EXHIBIT "B"

ARTICLES OF ORGANIZATION

COMMONWEALTH OF KENTUCKY

JOHN Y. BROWN III
SECRETARY OF STATE

0545681.06

John Y. Brown III
Secretary of State
Received and Filed
10/03/2002 01:48 PM
Fee Receipt: \$40.00Pcraine
LAOOARTICLES OF ORGANIZATION
Limited Liability Company

For the purposes of forming a limited liability company in Kentucky pursuant to KRS Chapter 275, the undersigned organizer(s) hereby submit(s) the following Articles of Organization to the Secretary of State for filing:

Article I: The name of the limited liability company is
WISPNET, LLC

Article II: The street address of the limited liability company's initial registered office in Kentucky is
70 AUTUMN DRIVE, LANCASTER, KY 40444

and the name of the initial registered agent at that office is **MARK I. HAYES**
MAIL TO:

Article III: The mailing address of the limited liability company's initial principal office is
105 BRAMBLE COURT, NICHOLASVILLE, KY 40356

Article IV: The limited liability company is to be managed by:

☐ a manager or managers.

(must check one)

☒ its member(s).

Executed by the Organizer(s) on

10-1-02

DAVID L. SURINA, ORGANIZER

BOOK 0479 PAGES 154 - 154
DEPUTY CLERK: BECKY H. BARRETT
COUNTY: JESSAMINE COUNTY
COUNTY CLERK: EVA L. MC DONNELL, CTC
TOTAL FEES: \$9.00
RECORDED ON: OCTOBER 15, 2002 02:25:15PM
DOCUMENT NO: 130726

Type or Print Name of Organizer

Signature of Organizer

Type or Print Name of Organizer

MARK I. HAYES

Type or Print Name of Registered Agent

consent to serve as the registered agent on behalf of the company.

MARK I. HAYES, REGISTERED AGENT

Type or Print Name of Registered Agent

EXHIBIT "C"

BIOGRAPHICAL STATEMENTS WISPNET LLC

Mark Hayes, President CLEC Services has served as Director of CLEC Engineering for Volaris Online/ALEC, Inc. since 1999. Mark has been responsible for the Competitive Local Exchange Carrier (CLEC) department. During his tenure, the CLEC grew from an initial SuperPOP based in Lexington, Kentucky to an eight state regional telecom network focused in the Southeast. Mark was instrumental in developing the "SuperPOP" architecture that today provides data, voice, DSL, Long Distance and Special Access Services on one ubiquitous network.

Prior to joining Volaris Online/ALEC, Mark served 5 years as a Senior Technician and later Operations Manager for one of the nations first alternative local exchange carriers, American Communications Services. With operations in Lexington and Louisville, Kentucky, Mark designed, installed and maintained a Sonet fiber and CLASS 5 Switch Network that encompassed both Metropolitan Service Areas. Mark has previous employments with an Independent Telephone Company and Siemens Stromberg-Carlson a telecommunications manufacturer based in Lake Mary, Florida. Together this represents over 16 years in the regulated utility and competitive markets.

Mark holds an Associate in Applied Science of Electronic Engineering from R.E.T.S. Louisville, Kentucky.

Mark Elliot, President – Network Operations has served as Volaris Online Vice President of Network Operations. Mark was responsible for managing network operations personnel and the day-to-day IP operations within the company. Mark joined Volaris Online in August of 1999 and immediately began the design and deployment of the nine-state Volaris Online ATM backbone. Mark was also responsible for all IGP/EGP design and configuration related to OSPF and BGP4 as well as vendor contracting.

Prior to joining Volaris Online/ALEC, Inc., Mark served as a network technician with KIH Online and was later promoted to the position of Network Operations Manager. Mark provided guidance during the original "SuperPOP" planning and design, which Volaris Online adopted as part of the KIH subscriber purchase.

Mark has previous employments with IBM and Commerce, Inc. Combined this represents over 7 years experience in the telecommunications industry.

EXHIBIT "D"

BIOGRAPHICAL STATEMENTS MCDANIEL, TINSLEY & ASSOCIATES, INC.

D. Richard McDaniel

McDaniel, Tinsley & Associates, Inc.

Prior to forming McDaniel, Tinsley & Associates, Inc., Richard served as Director – Carrier Relations for DURO Communications. In that position, he served as DURO Communications' interface with all ILEC's. His primary responsibilities were to direct the negotiation of Interconnection Agreements, assist in the development of rates for tariff filings and oversee the preparation of collocation applications. He also interfaced with the Accounting Department for invoice preparation and billing disputes. Any unresolved billing disputes were escalated to Mr. McDaniel for resolution. He served as a member of the Project Team to resolve any interconnection issues.

Prior to joining DURO Communications he directed the CHR Solutions' Client Services Group, Southeast Operations in Atlanta, Georgia. Mr. McDaniel has a background in network, engineering and operations.

Project Experience

- Interconnection Agreement Negotiations
- Billing Analysis
 - Network and regulatory studies
 - Extended Area Studies (EAS)
 - Signaling System Seven (SS7)
 - CLEC
 - AIN
 - Long Distance Resale Studies
 - Switch Replacement Studies and Implementation
 - Regulatory Filings

PROFESSIONAL BACKGROUND

<i>Director-Carrier Relations</i>	<i>June 2000 - Present</i>
<i>Director, Southeast Client Services</i>	<i>October 1997 – June 2000</i>
<i>Senior Consultant</i>	<i>December 1990 – October 1997</i>
<i>Various Management Positions, AT&T</i>	<i>September 1962 - December 1989</i>

EDUCATION, CERTIFICATIONS AND MEMBERSHIPS

- BBA in Management, Georgia State University, 1973
- MBA, Fairleigh Dickinson University, 1982

Judy B. Tinsley

McDaniel, Tinsley & Associates, Inc.

Prior to joining in the formation of McDaniel, Tinsley & Associates, Inc., Judy served as Director of Regulatory Affairs for ALEC, Inc. In that position, she served as interface for ALEC, Inc. and the State Public Utility Commissions in the Southeast, coordinating with the ALEC legal counsel when necessary. Her primary responsibilities were making sure ALEC was compliant and up to date on the latest filing requirements of each state PUC and gathering the data from the appropriate ALEC departments for any additional reporting on the State and/or Federal level. In addition, Judy assisted in the development of rates for tariff filings, and served as a member of the CLEC SuperPOP development team, aiding in the preparation of collocation applications, ASR's and LSR's, Operating Company Code purchases and administration.

Prior to joining ALEC, Inc. she served as a member of CHR Solutions Client Services Group, Southeast Operations in Atlanta, Georgia. Judy has a background in telecommunications network operations, management and sales.

Project Experience

- Regulatory Reporting
- Tariff Development and Filing
- CLEC Project Coordination
- Network and Regulatory studies
- NECA Settlement Issues
- Switch Upgrade Assistance
- Extended Area Studies (EAS)
- Equal Access Conversion Coordination
- Customer Access Billing
- National Sales Support
- Network Management
- Data Processing

PROFESSIONAL BACKGROUND

Director-Regulatory Affairs

June 2000 - Present

Manager, Southeast Client Services

October 1997 – June 2000

Associate Consultant

November 1996 – October 1997

Occupational & Management Positions, AT&T

September 1971 – January 1981